

FILED  
SECTION

2017 APR 20 AM 9:43

BEFORE THE FEDERAL ELECTION COMMISSION

CELA

In the Matter of )  
 ) MUR 6857  
Marilinda Garcia for Congress and David )  
Horan in his official capacity as )  
treasurer; Speedway Motorsports, Inc.; )  
New Hampshire Motor Speedway, Inc.; )  
Jerry Gappens; Lucy Gappens )

CERTIFICATION

I, Dayna C. Brown, recording secretary of the Federal Election Commission executive session, do hereby certify that on April 19, 2017, the Commission took the following actions in the above-captioned matter:

1. Failed by a vote of 2-3 to:

- a. Find reason to believe that Marilinda Garcia for Congress and David Horan in his official capacity as treasurer violated 52 U.S.C. § 30118(a) and 52 U.S.C. § 30104(b).
- b. Find reason to believe that New Hampshire Motor Speedway, Inc., violated 52 U.S.C. § 30118(a).
- c. Find reason to believe that Jerry Gappens violated 52 U.S.C. § 30118(a).
- d. Find no reason to believe that Speedway Motorsports Inc., violated 52 U.S.C. § 30118(a).
- e. Find no reason to believe that Lucy Gappens violated the Act in this matter.
- f. Close the file as to Speedway Motorsports, Inc., and Lucy Gappens.
- g. Approve the Factual and Legal Analyses, as recommended in the First General Counsel's Report dated November 21, 2016, subject to the edits

circulated by Commissioner Weintraub's office on March 22, 2017 at 6:34 p.m.

- h. Enter into conciliation with Marilinda Garcia for Congress and David Horan in his official capacity as treasurer prior to a finding of probable cause to believe.
- i. Enter into conciliation with New Hampshire Motor Speedway, Inc., and Jerry Gappens prior to a finding of probable cause to believe.
- j. Approve the conciliation agreements as recommended in the First General Counsel's Report dated November 21, 2016.
- k. Approve the appropriate letters.

Commissioners Walther and Weintraub voted affirmatively for the motion.

Commissioners Goodman, Hunter, and Petersen dissented.

2. Decided by a vote of 5-0 to:

- a. Find reason to believe that Jerry Gappens violated 52 U.S.C. § 30118(a).
- b. Find no reason to believe that Speedway Motorsports Inc., violated 52 U.S.C. § 30118(a).
- c. Find no reason to believe that Lucy Gappens violated the Act in this matter.
- d. Close the file as to Speedway Motorsports, Inc., and Lucy Gappens.
- e. Approve the appropriate letters.

Commissioners Goodman, Hunter, Petersen, Walther and Weintraub voted affirmatively for the decision.

3. Decided by a vote of 5-0 to:

- a. Enter into conciliation with Jerry Gappens prior to a finding of probable cause to believe.
- b. Direct the Office of General Counsel (OGC) to revise the Factual and Legal Analysis (FLA) and Conciliation Agreement to reflect that the Commission is only pursuing Jerry Gappens, and to the extent that it remains relevant, OGC will also incorporate the FLA edits circulated by Commissioner Weintraub's Office on March 22, 2017 at 6:34 p.m.

- c. Close the file as to New Hampshire Motor Speedway, Inc., and Marilinda Garcia for Congress and David Horan in his official capacity as treasurer.

Commissioners Goodman, Hunter, Petersen, Walther and Weintraub voted affirmatively for the decision.

Attest:

April 19, 2017

Date

Dayna C. Brown

Dayna C. Brown  
Secretary and Clerk of the Commission

1704141-10300